

HOUSE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILLS NOS. 299 & 40

AN ACT

2 To repeal sections 33.210, 33.250, 33.270,
3 33.800, 33.803, 33.805, 33.807, and 33.810,
4 RSMo, and to enact in lieu thereof twenty-
5 four new sections relating to performance-
6 based budgeting.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
8 AS FOLLOWS:

9 Section A. Sections 33.210, 33.250, 33.270, 33.800, 33.803,
10 33.805, 33.807, and 33.810, RSMo, are repealed and twenty-four
11 new sections enacted in lieu thereof, to be known as sections
12 23.250, 23.253, 23.256, 23.259, 23.262, 23.265, 23.268, 23.271,
13 23.274, 23.277, 23.280, 23.283, 23.292, 23.295, 23.298, 33.210,
14 33.250, 33.270, 33.544, 33.800, 33.803, 33.805, 33.807, and
15 33.810, to read as follows:

16 23.250. Sections 23.250 to 23.298 shall be known and may be
17 cited as the "Missouri Sunset Act".

18 23.253. 1. As used in sections 23.250 to 23.298, the
19 following terms mean:

20 (1) "Agency", any department, division, or agency of the
21 state responsible for the administration of a program;

1 (2) "Committee", the committee on legislative research
2 established in section 35, article III, Constitution of Missouri
3 and section 23.010;

4 (3) "Program", a distinct and coherent set of activities
5 authorized by the general assembly through the legislative
6 process intended to affect a clearly definable target group,
7 problem, or issue and which can be appropriated through the
8 budget process or nonappropriated, as in the case of tax credits;

9 (4) "Sunset", the termination of legislative authorization
10 of a program.

11 2. After August 28, 2003, any new program authorized by the
12 general assembly shall sunset not more than six years after its
13 effective date unless reauthorized by an act of the general
14 assembly. No funds may be expended on a program after its
15 authorization has terminated. Legislation passed after August
16 28, 2003, shall indicate whether it contains a program subject to
17 the Missouri sunset act. Any such program shall have a sunset
18 clause clearly indicating the date of termination without
19 reauthorization.

20 3. Any program reauthorized by the general assembly
21 pursuant to this section shall include a provision specifying
22 that the program shall sunset at a date not more than twelve
23 years from the effective date of the program's reauthorization.

24 4. Any program to which money was appropriated prior to

1 August 28, 2003, may at any time be subject to review of the
2 committee by a majority vote of its members for the purpose of
3 recommending to the general assembly its continuation or sunset.
4 The committee shall conduct public hearings concerning but not
5 limited to the application to the program of the criteria
6 provided in section 23.268, and shall issue a report pursuant to
7 subsection one of section 23.271. The committee may recommend to
8 the general assembly by a majority vote of its members that a
9 program under review, to which money was appropriated prior to
10 August 28, 2003, be sunset, continued, or reorganized. The
11 committee shall submit such recommendation to all members of the
12 general assembly within thirty calendar days of the vote in which
13 such recommendation is made.

14 23.256. Before October thirtieth of the second calendar
15 year prior to the year in which a state program subject to
16 sections 23.250 to 23.298 is scheduled to sunset, the agency
17 shall report to the committee:

18 (1) Information regarding the application to the program of
19 the criteria in section 23.268; and

20 (2) Any other information that the agency considers
21 appropriate or that is requested by the committee.

22 23.259. 1. Before September first of the calendar year
23 prior to the year in which a program subject to sections 23.250
24 to 23.298 is scheduled to sunset, the committee shall:

1 (1) Review and take action necessary to verify the reports
2 submitted by the agency pursuant to section 23.256;

3 (2) Consult with the budget committee of the house of
4 representatives, the appropriations committee of the senate, the
5 office of budget and planning, the state auditor, and the state
6 treasurer on the application to the agency of the criteria
7 provided in section 23.268; and

8 (3) Conduct a performance evaluation of the program based on
9 the criteria provided in section 23.268 and prepare a written
10 report.

11 2. The written report prepared by the committee pursuant to
12 subdivision (3) of subsection 1 of this section shall be deemed a
13 public record.

14 23.262. 1. Between September first and December first of
15 the calendar year prior to the year in which a program subject to
16 sections 23.250 to 23.298 is scheduled to sunset, the committee
17 shall conduct public hearings concerning but not limited to the
18 application to the program of the criteria provided in section
19 23.268.

20 2. The committee may hold the public hearings prior to
21 September first if the evaluation of the program required in
22 subdivision (3) of subsection 1 of section 23.268 is complete and
23 available to the public.

24 23.265. 1. At the beginning of each regular session of the

1 general assembly, the committee shall present to the general
2 assembly and the governor a report on the programs scheduled to
3 be sunset.

4 2. In the report, the committee shall include:

5 (1) Its specific findings regarding each of the criteria
6 prescribed by section 23.268;

7 (2) Its recommendations based on the matters prescribed by
8 section 23.271; and

9 (3) Any other information the committee deems necessary for
10 a complete evaluation of the program.

11 23.268. The committee and its staff shall consider the
12 following criteria in determining whether a public need exists
13 for the continuation of a program, or for the performance of the
14 functions of the program:

15 (1) The efficiency with which the program operates;

16 (2) An identification of the objectives intended for the
17 program and the problem or need that the program was intended to
18 address, the extent to which the objectives have been achieved,
19 and any activities of the agency in addition to those granted by
20 statute and the authority for such activities;

21 (3) An assessment of less restrictive or alternative
22 methods of performing any rule or regulation that the agency
23 performs that could adequately protect the public;

24 (4) The extent to which the jurisdiction of the agency and

1 the programs administered by the agency overlap or duplicate
2 those of other agencies and the extent to which the programs
3 administered by the agency can be consolidated with the programs
4 of other state agencies;

5 (5) Whether the agency has recommended to the general
6 assembly statutory changes calculated to be of benefit to the
7 public rather than to an occupation, business, or institution
8 that the agency regulates;

9 (6) The promptness and effectiveness with which the agency
10 disposes of complaints concerning persons affected by the
11 program;

12 (7) The extent to which the agency has encouraged
13 participation by the public in making rules and decisions as
14 opposed to participation solely by those it regulates and the
15 extent to which the public participation has resulted in rules
16 compatible with the objectives of the program;

17 (8) The extent to which the agency has complied with
18 applicable requirements of:

19 (a) An agency of the United States or this state regarding
20 equality of employment opportunity and the rights and privacy of
21 individuals; and

22 (b) State law and applicable rules of any state agency
23 regarding purchasing goals and programs for historically
24 underutilized businesses;

1 (9) The extent to which changes are necessary in the
2 enabling statutes of the program so that the agency can
3 adequately comply with the criteria established in this section;

4 (10) The extent to which the agency issues and enforces
5 rules relating to potential conflicts of interest of its
6 employees;

7 (11) The extent to which the agency complies with chapter
8 610, RSMo, and follows records management practices that enable
9 the agency to respond efficiently to requests for public
10 information; and

11 (12) The effect of federal intervention or loss of federal
12 funds if the program is sunset.

13 23.271. 1. In its report on a program, the committee
14 shall:

15 (1) Make recommendations on the sunset, continuation, or
16 reorganization of each affected program and on the need for the
17 performance of the functions of the program;

18 (2) Make recommendations on the consolidation, transfer, or
19 reorganization of programs within state agencies not under review
20 when the programs duplicate functions performed in programs under
21 review;

22 (3) Recommend appropriation levels for each program for
23 which sunset or reorganization is recommended pursuant to
24 subdivision (1) or (2) of this subsection; and

1 (4) Include drafts of legislation necessary to carry out
2 the committee's recommendations pursuant to subdivisions (1) and
3 (2) of this subsection.

4 2. On the date the committee presents its report to the
5 general assembly pursuant to section 23.265, the committee shall
6 present to the state auditor the committee's recommendations that
7 do not require a statutory change to be put into effect. The
8 state auditor shall examine the recommendations and shall
9 prepare, as part of the next scheduled audit of the program, a
10 report on the manner in which the agency has implemented the
11 recommendations.

12 23.274. 1. In the two-year period preceding the date
13 scheduled for the sunset of a program pursuant to sections 23.250
14 to 23.298, the committee may exempt certain agencies from the
15 requirements of sections 23.250 to 23.298 relating to staff
16 reports, hearings, and evaluations.

17 2. The committee shall only exempt programs that have been
18 inactive for a period of two years preceding the date the program
19 is scheduled to sunset.

20 3. The committee's action in exempting programs pursuant to
21 this section shall be done by an affirmative record vote of all
22 members of the committee.

23 23.277. During each regular or special session of the
24 general assembly, the staff of the committee shall monitor

1 legislation affecting programs that have undergone sunset review
2 and shall periodically report to the members of the committee on
3 proposed changes which would modify prior recommendations of the
4 committee.

5 23.280. Sections 23.250 to 23.298 shall not prohibit the
6 general assembly from:

7 (1) Terminating a program at a date earlier than that
8 provided in sections 23.250 to 23.298; or

9 (2) Considering any other legislation relative to a program
10 subject to sections 23.250 to 23.298.

11 23.283. 1. A program that is sunset may continue in
12 existence until September first of the following year to conclude
13 its business. Unless the law provides otherwise, sunset does not
14 reduce or otherwise limit the powers and authority of the agency
15 during the concluding year. A program is terminated and shall
16 cease all activities at the expiration of the one-year period.
17 Unless the law provides otherwise, all rules adopted by the state
18 agency shall expire at the expiration of the one-year period.

19 2. Any unobligated and unexpended appropriations of a
20 sunset program lapse on September first of the year after sunset.

21 3. Except as provided by subsection 5 of this section or as
22 otherwise provided by law, all moneys in a dedicated fund of a
23 program that sunsets on September first of the year after sunset
24 shall be transferred to the credit of the general revenue fund.

1 Any law or portion of a law dedicating the moneys to a specific
2 fund of a program that sunsets shall become void on September
3 first of the year after sunset.

4 4. Unless the governor designates an appropriate state
5 agency as prescribed in subsection 5 of this section, property
6 and records in the custody of an agency administering a sunset
7 program on September first of the year after sunset shall be
8 transferred to the office of administration. If the governor
9 designates an appropriate state agency, the property and records
10 shall be transferred to the designated state agency.

11 5. In recognition of the state's continuing obligation to
12 pay bonded indebtedness and all other obligations, including
13 lease, contract, and other written obligations, incurred by a
14 program pursuant to sections 23.250 to 23.298, sections 23.250 to
15 23.298 shall not impair or impede payment of bonded indebtedness
16 and all other obligations, including lease, contract, and other
17 written obligations, in accordance with their terms. If an
18 agency has outstanding bonded indebtedness or other outstanding
19 obligations for a sunset program, including lease, contract, or
20 other written obligations, the bonds and all other such
21 obligations remain valid and enforceable in accordance with their
22 terms and subject to all applicable terms and conditions of the
23 laws and proceedings authorizing the bonds and all other such
24 obligations. The governor shall designate an appropriate state

1 agency to continue to carry out all covenants contained in the
2 bonds and all other such obligations, and the proceedings
3 authorizing them, including the issuance of bonds, and the
4 performance of all other such obligations to complete the
5 construction of projects or the performance of other such
6 obligations. The designated state agency shall provide payment
7 from the sources of payment of the bonds in accordance with the
8 terms of the bonds and shall provide payment from the sources of
9 payment from all other such obligations in accordance with their
10 terms, whether from taxes, revenues, or otherwise, until the
11 bonds and interest on the bonds are paid in full and are
12 performed and paid in full. If the proceedings so provide, all
13 funds established by law or proceedings authorizing the bonds or
14 authorizing other such obligations shall remain with the state
15 treasurer or previously designated trustees. If the proceedings
16 do not provide that the funds remain with the state treasurer or
17 previously designated trustees, the funds shall be transferred to
18 the designated state agency.

19 23.292. 1. The committee may request the assistance of
20 state agencies and officers. When assistance is requested, a
21 state agency or officer shall assist the committee.

22 2. In carrying out its functions pursuant to sections
23 23.250 to 23.298, the committee or its designated staff member
24 may inspect the records, documents, and files of any state

1 agency.

2 23.295. If an employee is displaced because a program is
3 sunset, reorganized, or continued, the state agency and the
4 division of workforce development in the department of economic
5 development shall make a reasonable effort to relocate the
6 displaced employee.

7 23.298. Except as otherwise expressly provided, sunset of a
8 program does not affect the rights and duties that matured,
9 penalties incurred or imposed, civil or criminal liabilities that
10 arose, or proceedings initiated before the effective date of the
11 sunset.

12 33.210. 1. The director of the budget shall assist the
13 governor in the preparation of the budget and in his other duties
14 in relation thereto.

15 2. The budget director shall develop and implement a
16 performance-based budgeting system that establishes goals and
17 objectives, provides detailed measures of program and fund
18 performance against attainment of planned outcomes, and provides
19 for program evaluations. The governor may consider all outcome
20 measures used for each program and fund as compared with the
21 attainment of the established goals and objectives of each
22 program or fund for the past three fiscal years in preparing
23 budget recommendations pursuant to section 33.270. Such outcome
24 measures and attainment of established goals and objectives for

1 each program and fund shall be considered by the general assembly
2 in approving appropriation levels for each program and fund.

3 33.250. 1. The budget director shall check all estimates
4 submitted to see that all information required is included and
5 may require any additional information from any department. He
6 or she shall then submit all estimates to the governor, who may
7 either himself or herself or through the budget director call in
8 any officer of any department to consider the estimates of such
9 department and may order any further investigation of any item.
10 The governor shall then prepare his or her tentative budget
11 recommendations based on [each of the estimates] the revenue
12 estimate as determined pursuant to subsection 2 of this section
13 and may hold such further conferences with any officer as he or
14 she may wish. After the preparation of such recommendations
15 they, or a summary thereof, shall be made public and a public
16 hearing thereon [may] shall be held by the governor at which any
17 person may appear and make suggestions as to any item or items or
18 concerning the budget as a whole. After such hearing, the
19 governor shall prepare his or her final budget for submission to
20 the general assembly. In any fiscal year, actual state
21 expenditures shall not exceed the revenue estimate pursuant to
22 subsection 2 of this section unless otherwise provided by the
23 constitution or by law.

24 2. The revenue estimate upon which the governor's

1 recommended budget for each fiscal year is based shall be the
2 lesser of:

3 (1) The revenue estimate as determined in subsection 1 of
4 this section; or

5 (2) The amount actually spent for the most recently
6 completed fiscal year, modified as follows:

7 (a) Increased or decreased by the percentage change in the
8 general price level from July of that fiscal year to July of the
9 current fiscal year as measured by the Consumer Price Index for
10 all urban consumers for the Midwest Region, or its successor
11 publications, as defined and officially reported by the United
12 States Department of Labor, or its successor agency; and

13 (b) Increased or decreased by the percentage change in
14 population of the state from the end of the calendar year
15 immediately preceding the most recently completed calendar year
16 to the end of the most recently completed calendar year as
17 estimated and reported by the United States Census Bureau, or its
18 successor agency; and

19 (c) In any year in which the percentage change in
20 productivity increases, measured as nonfarm business output as
21 defined by the United States Department of Labor or its successor
22 agency from July of the prior fiscal year to July of the current
23 fiscal year, the revenue estimate will be decreased by the
24 percentage change; and

1 (d) Increased by any state spending that has been approved
2 by voters.

3 33.270. The budget shall be submitted to the general
4 assembly in printed form. Such budget shall be in two parts:

5 (1) A budget message outlining the fiscal policy of the
6 state for the biennium and describing the important features of
7 the budget plan; giving a summary of the budget setting forth
8 aggregate figures of proposed revenues and expenditures and the
9 balanced relations between the proposed revenues and expenditures
10 and the total expected income and other means of financing the
11 budget compared with the corresponding figures for the preceding
12 biennium; including explanatory schedules classifying proposed
13 expenditures by organization units, objects and funds; giving
14 estimated statements of assets and liabilities as of the close of
15 the preceding biennium and of the budget biennium; explaining any
16 proposed major increases in revenue from any existing source or
17 any new source of revenue proposed, and giving any further
18 information or making any suggestions;

19 (2) The detailed budget estimates of revenues and
20 expenditures for each fund as provided for in this act showing
21 the recommendations of the governor on each, compared with the
22 figures for each of the fiscal years of the preceding biennium,
23 including all outcome measures used for each program and fund as
24 compared with the attainment of the established goals and

1 objectives of each program and fund for the past three fiscal
2 years and projected outcome measures for each program and fund
3 for the current fiscal year and the next two fiscal years, the
4 most recent reports done by the state auditor's office and any
5 evaluations done by the oversight division of the committee on
6 legislative research for each fund and program and giving an
7 explanation of each major change in the recommendations from the
8 revenues and expenditures in the previous biennium.

9 33.544. There is hereby created in the state treasury the
10 "Excess Revenue Collections Fund". State revenues collected in
11 excess of the revenue estimate, as provided for in section
12 33.250, shall be deposited in the excess revenue collections
13 fund. At no time shall the fund balance exceed an amount equal
14 to seven percent of the general revenue collections in the most
15 recently completed fiscal year. The maximum amount that may be
16 appropriated from the fund at any one time shall be one-half the
17 balance in the fund on the first day of the prior fiscal year.
18 Moneys deposited in the fund shall not be expended during the
19 fiscal year in which they are received. The general assembly
20 may, in any successive fiscal year after the moneys are deposited
21 into the fund, appropriate the moneys for the purpose of
22 nonrecurring expenditures by a vote in the affirmative of four-
23 sevenths of the members of each chamber, whether all members are
24 present or not. All interest gained or earnings of the fund

1 shall be retained within the fund and shall not be transferred
2 out of the fund without an appropriation by the general assembly.

3 33.800. The chairman of the house budget committee, the
4 chairman of the senate appropriations committee and the
5 commissioner of administration shall develop budget review
6 procedures to provide for a [detailed base] performance-based
7 review of state agency budgets. Such procedures shall be jointly
8 adopted by the budget committee of the house, the appropriations
9 committee of the senate and the office of administration.

10 33.803. 1. [Detail base] Performance-based review
11 procedures [may] shall be designed to:

12 (1) Operate on a defined rotating basis requiring the
13 [detailed] performance-based review of specified departments or
14 agencies in a particular fiscal year; or

15 (2) Provide for random review of specific departments or
16 agencies on the basis of perceived needs and requirements of the
17 state budget.

18 2. [Detail base] Performance-based review shall be required
19 by the budget and appropriations committees and the selection of
20 the department or agency or program shall be made on a rotating
21 basis, with a majority concurrence of the chairman of the house
22 budget committee, the chairman of the senate appropriations
23 committee and the director of the division of budget and
24 planning[. The review, whether on a defined rotating basis or on

1 a random basis, may be applied to the]; provided that, every
2 department, division, or agency shall be reviewed at least once
3 every five years after January 1, 2005. The chair of the house
4 budget committee, the chair of the senate appropriations
5 committee, and the director of the division of budget and
6 planning shall decide what the review will cover, which may
7 include the:

8 (1) Entire budget of the department or agency;

9 (2) Budget subclasses as detailed by the office of
10 administration; or

11 (3) Selected programs; and

12 (4) Outcome measures used for programs and funds within the
13 department, division, or agency.

14 3. Where similar programs or services are provided by more
15 than one department or agency, the [detail base] performance-
16 based review procedures may provide for a review and
17 investigation of the program or service level on an interagency
18 or interdepartmental basis in an effort to consolidate such
19 programs or services.

20 33.805. 1. Any department or agency selected for a [detail
21 base] performance-based review under procedures adopted pursuant
22 to the provisions of sections 33.800 to 33.810 shall present its
23 appropriation request in a manner prescribed by the budget and
24 appropriation committees so that all programs or services can be

1 reviewed, to the extent practicable, on the basis of a
2 cost/benefit evaluation, and shall contain, to the extent
3 requested, a detailed itemization of all existing and anticipated
4 expenditures which are to be allocated to each program, service
5 or function for the year of the appropriation request.

6 2. All departments and agencies shall submit their
7 respective appropriations requests in a uniform manner as
8 prescribed by procedures prescribed pursuant to section 33.800.

9 33.807. All officers and employees of the state, all
10 departments, boards, commissions, bureaus and other agencies and
11 institutions of the state which are supported, in whole or in
12 part, by appropriations from the state shall furnish the budget
13 committee of the house of representatives and the appropriations
14 committee of the senate with complete access to their records and
15 full information and assistance in any matter of research or
16 investigation in connection with a [detail base] performance-
17 based review. This section shall not be construed to compel the
18 disclosure of any records or information which is declared to be
19 privileged or confidential under any law of this state or the
20 United States or by an order of a court of competent
21 jurisdiction.

22 33.810. When any department or agency is selected for a
23 [detail base] performance-based review pursuant to the provisions
24 of sections 33.800 to 33.810, an analysis team shall be formed to

1 consist of a budget analyst of the senate appropriations
2 committee selected by the chairman of the senate appropriations
3 committee, a budget analyst of the house budget committee
4 selected by the chairman of the house budget committee, a budget
5 analyst who is employed by the office of administration
6 designated by the commissioner of administration, and an employee
7 of the department or agency subject to the [detail base]
8 performance-based review selected by the chief administrative
9 officer of that department or agency. Upon request of the
10 chairmen of the legislative committees, the oversight division of
11 the joint committee on legislative research shall assist the
12 analysis team and provide such services as may be required.
13 Members of the team shall receive no additional compensation for
14 their services, but may be reimbursed for their actual and
15 necessary expenses connected with the performance of their duties
16 out of the joint legislative contingent fund. The team shall
17 perform such functions, analysis and other duties as are
18 specified in the [detail base] performance-based review
19 procedures established pursuant to the provisions of section
20 33.800. The team shall begin the [detail base] performance-based
21 review no sooner than the final approval of the appropriations
22 bills by the governor and complete the review no later than
23 [October first] December thirty-first of the same year.